

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6116**

**BILL NUMBER:** SB 34

**NOTE PREPARED:** Feb 17, 2009

**BILL AMENDED:** Feb 5, 2009

**SUBJECT:** Assisting a Criminal.

**FIRST AUTHOR:** Sen. Bray

**FIRST SPONSOR:** Rep. C. Lawson

**BILL STATUS:** As Passed Senate

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill has the following provisions:

- A. It transfers certain provisions concerning providing assistance to a criminal from the crime of assisting a criminal to the crime of obstruction of justice.
- B. It renames the crime of assisting a criminal to "assisting a fugitive." (The bill keeps existing provisions that make it a crime to harbor, conceal, or otherwise assist a fugitive from justice with the intent to hinder the apprehension or punishment of the fugitive).
- C. It makes assisting a fugitive a Class D felony, and enhances the penalty to a Class C felony if the assisting was providing a deadly weapon. It removes provisions that enhanced the penalty based on the crime that the fugitive or criminal had committed.
- D. It specifies that it is not a defense that the person: (1) has not been prosecuted; (2) has not been convicted; or (3) has been acquitted by reason of insanity.
- E. It provides that a person commits obstruction of justice if the person, knowing or having reason to believe that a person has committed a crime or delinquent act, and with the intent to hinder the apprehension or punishment of the person, harbors, conceals or assists in the unlawful flight of the person. It enhances the penalty to a Class C felony if the assistance was providing a deadly weapon, and specifies that the offense does not apply to the parent, spouse, or child of the person who is harbored, concealed, or assisted.
- F. It makes conforming amendments.

(The introduced version of this bill was prepared by the Sentencing Policy Study Committee.)

**Effective Date:** July 1, 2009.

**Explanation of State Expenditures:** (Revised) The following table presents a summary of the proposed changes in this bill.

Offense		Current Law	Proposed	Potential Effect on DOC Facilities
Assisting a fugitive by....	... harboring, concealing, or assisting in the unlawful flight	Class A Misdemeanor	Class D Felony	May increase offenders in prison or probation
	... providing a deadly weapon	Class C felony	no change	No change
Obstructing justice when a person knows that a suspect may have committed a crime and ...	... harbors, conceals, or assists in unlawful flight of the suspect who may have committed a Class B, C, or D felony	Class A Misdemeanor	Class D Felony	May increase offenders in prison or probation
	... harbors, conceals, or assists in unlawful flight of the suspect who may have committed murder or a Class A felony	Class C Felony	Class D Felony	Could reduce offenders in prison. Relatively small number.
	... provides a deadly weapon to suspect	Class C felony	no change	No change

**Background and Analysis**— More offenders could be committed to Department of Correction (DOC) facilities for Class D felonies. The increase in offenders is unknown. Either fewer or no additional offenders could be committed for Class C felonies.

The number of Class D felons who were committed to DOC has averaged 16 per year between CY 2004 and CY 2008. Offenders who are currently sentenced as Class A misdemeanants and would be sentenced as Class D felons could either be placed on probation, community corrections programs, or spend a minimal time in prison.

Offenders committed to DOC facilities for assisting a criminal or a fugitive are not required to serve a mandatory minimum sentence under IC 35-50-2-2, so some offenders could spend a relatively small amount of time in prison even if committed. The average time served by offenders who were committed for either assisting a criminal or a fugitive and released in either CY 2007 or CY 2008 was 684 days for Class C felonies and 246 days for Class D. The average expenditure to house an adult offender was \$20,287 in FY 2008 and \$69,223 for a juvenile. (This does not include the cost of new construction.)

Between CY 2004 and 2008, the number of offenders who were committed to DOC for either assisting a criminal or a fugitive has ranged between 18 and 30.

Felony Level	2004	2005	2006	2007	2008	5-Year Average
Class C	13	8	4	7	11	8.6
Class D	17	18	19	11	15	16
Grand Total	30	26	23	18	26	24.6

The following table shows terms of incarceration for Class A misdemeanors and Class D and C felonies for assisting a criminal.

Crime	Term of Incarceration
Class A Misdemeanor	Up to one year in county jail.
Class D Felony	Advisory sentence 1.5 years; ranges from 6 months to 3 years.
Class C Felony	Advisory sentence 4 years; ranges from 2 to 8 years.

**Explanation of State Revenues:** If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fines for both Class D and C felonies is \$10,000. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund.

Since all felonies are filed in a circuit, superior, or county courts, 70% of the \$120 criminal costs fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

**Explanation of Local Expenditures:** If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

**Explanation of Local Revenues:** If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

**State Agencies Affected:** DOC.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Indiana Sheriffs' Association, DOC.

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